

Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

RIDE THE DUCKS SEATTLE, LLC,  
Plaintiff,

v.

RIDE THE DUCKS INTERNATIONAL, LLC,  
et al.,  
Defendants.

\_\_\_\_\_  
RIDE THE DUCKS INTERNATIONAL, LLC,  
Cross-Plaintiff,

v.

BRIAN TRACEY, et al.  
Defendants.

No. 2:19-cv-01408-MJP  
[consolidated]

STIPULATED MOTION FOR  
ISSUANCE OF A NEW CASE  
SCHEDULE

NOTE ON MOTION CALENDAR:  
May 21, 2020

**STIPULATION**

Plaintiff Ride the Ducks of Seattle, LLC (“RTDS”), by and through its counsel of record, Patricia K. Buchanan, D. Jack Guthrie, and Nicholas A. Carlson of Patterson Buchanan Fobes & Leitch, Inc., P.S., and Defendants Ride the Ducks International, LLC (“RTDI”), Chris Herschend and Jane Doe Herschend (“Herschend”) and Herschend Family Entertainment Corporation (“HFEC”) (collectively “Defendants”), by and through their counsel of record,

STIPULATED MOTION FOR ISSUANCE OF A NEW  
CASE SCHEDULE - 1

1 Rodney Umberger and Tyler Hermesen of Williams Kastner, stipulate and respectfully move the  
2 Court for a new case schedule in light of serious delays and disruptions caused by the COVID-  
3 19 public health emergency and the automatic bankruptcy stay that resulted in RTDS's  
4 bankruptcy petition.

5 On March 6, 2020, the Chief United States District Judge for the Western District of  
6 Washington entered General Order No. 01-20 regarding changes to courthouse operations in  
7 light of the outbreak of Coronavirus Disease 2019 (COVID-19). That order continued all matters  
8 scheduled for in-Court appearances pending further order of the Court.

9 On March 17, 2020, General Order No. 02-20 was entered which further heightened the  
10 measures designed to protect the Court, parties and the legal community from COVID-19. That  
11 order continued all civil hearing and trials that had been set prior to June 1, 2020 in addition to  
12 closing both the Seattle and Tacoma Courthouses.

13 On March 18, 2020, RTDS filed for Chapter 7 Bankruptcy with the U.S. Bankruptcy  
14 Court, Western District of Washington. *See* Petition No. 20-10883-TWD. After conferencing  
15 with the parties, this Court observed that the matter was automatically stayed pending direction  
16 from the Bankruptcy Court and all pending motions, including cross motions for summary  
17 judgment and discovery motions, were stricken due to the bankruptcy stay.

18 On April 13, 2020, General Order No. 07-20 was entered which extended the continuance  
19 of all civil hearings and trials another month to July 1, 2020. That order also acknowledged the  
20 current inability to obtain adequate juror pools from which trials could secure juries while  
21 observing necessary social distancing practices.

1 On May 5, 2020, the Bankruptcy Court lifted the automatic stay as to all matters related  
2 to this litigation.

3 On May 7, 2020, this Court ordered the parties to confer and present a revised case  
4 schedule including a proposal for addressing the various motions and cross-motions that were  
5 stricken as a result of the automatic bankruptcy stay.

6 On May 13, 2020, General order No. 08-20 was entered which further extended the  
7 continuance of all civil hearings and trial dates that were scheduled to occur before August 3,  
8 2020. This matter is currently set for a three-week trial to begin on October 5, 2020.

9 Per order of the Court, the parties make this request for a new case schedule to most  
10 effectively and economically litigate the issues in this case. Significant challenges face the  
11 parties, primarily stemming from public health concerns and the safety of the parties, witnesses,  
12 and counsel due to the ongoing public health emergency posed by COVID-19. While the parties  
13 have attempted to consider the present impact COVID-19 has on this litigation, including  
14 limitations on travel, the taking of depositions, and courthouse closures, the parties cannot  
15 predict how the impact of COVID-19 may change in the future. Based on the information  
16 available to the parties at this time and reasonable inferences regarding the significant backlog  
17 of continued criminal and civil cases the parties present the following dates to be incorporated  
18 into a new case schedule:  
19  
20

<b>Event</b>	<b>New Date</b>
Expert Opinions Due	<b>October 30, 2020</b>
All Discovery Motions Filed	<b>December 18, 2020</b>
Discovery Cutoff	<b>January 22, 2021</b>
Dispositive Motions	<b>February 12, 2021</b>
Motions in Limine	<b>March 8, 2021</b>
Jury Trial	<b>April 5, 2021</b>

The parties also conferred regarding how the stayed motions should be addressed now that the automatic bankruptcy stay has been lifted. All parties agree that the court should hear the motions soon and that no additional briefing is necessary prior to the court considering the summary judgment motions. The parties may file updated declarations as to the motion for contempt to fully apprise the Court of relevant facts and developments since the prior hearing on that motion. **The defendants** request that the motions all be noted for June 5, 2020. **RTDS** requests that the motions be noted for the earliest convenient date for the court. The parties will make themselves available for argument, should the Court call for argument, via video or teleconference consistent with established social distancing practices and General Orders referenced above.

AGREED AND STIPULATED TO on this 21st day of May, 2020.

PATTERSON BUCHANAN  
FOBES & LEITCH, INC., P.S.

By: s/D. Jack Guthrie  
Patricia K. Buchanan, WSBA 19892  
D. Jack Guthrie, WSBA 46404  
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STIPULATED MOTION FOR ISSUANCE OF A NEW  
CASE SCHEDULE - 4

**ORDER**

THIS CAUSE CAME TO BE HEARD upon the above Stipulation of the parties, by and through their respective attorneys of record, seeking a new case schedule in light of the emergent public health emergency posed by COVID-19 and the interruption caused by the automatic bankruptcy stay. The Court finds good cause to set a new case schedule and thus the stipulated motion is hereby GRANTED. The new case deadlines shall be as follows:

Event	New Date
Expert Opinions Due	<b>October 30, 2020</b>
All Discovery Motions Filed	<b>December 18, 2020</b>
Discovery Cutoff	<b>January 22, 2021</b>
Dispositive Motions	<b>February 12, 2021</b>
Motions in Limine	<b>March 8, 2021</b>
Jury Trial	<b>April 5, 2021</b>

Additionally, the pending discovery motion and dispositive motions are noted for **June 12, 2020**.

IT IS SO ORDERED AND ADJUDGED on this \_\_22nd\_\_ day of May, 2020.



Marsha J. Pechman  
United States Senior District Judge

Presented by:

PATTERSON BUCHANAN  
FOBES & LEITCH, INC., P.S.

By: s/D. Jack Guthrie

Patricia K. Buchanan, WSBA 19892

D. Jack Guthrie, WSBA 46404

Nicholas Carlson, WSBA 48311

Of Attorneys for Plaintiff Ride the Ducks of Seattle, LLC,

And Defendant Brian Tracey and Jane Doe Tracey

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9 WILLIAMS KASTNER & GIBBS PLLC

10 By: s/Tyler J. Hermsen (via email approval)  
11 Rodney L. Umberger, WSBA #24948  
12 Tyler J. Hermsen, WSBA #43665  
13 Attorneys for Defendants  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 21, 2020, I caused the foregoing documents to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Mr. Rodney Umberger, Jr.  
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I certify under penalty of perjury that the foregoing is true and correct.

DATED this 21st day of May, 2020, at Seattle, Washington.

/s/ Jennifer Friesen  
Jennifer Friesen